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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,871

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Nicholas Stamos

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11/09/2007

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EXAMINER

MURDOUGH, JOSHUA A

ART UNIT

PAPER NUMBER

4132

MAIL DATE

DELIVERY MODE

11/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,871

Applicant(s)

STAMOS ET AL.

Examiner

Joshua Murdough

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

KHOI H. TRAN
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/3/2007.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

Applicant's amendment, filed 3 October 2007, has been entered. There are 22 total claims, 1-22, including 2 independent claims, 1 and 12, pending. The previous rejections under 112 and 101 have been withdrawn.

Drawings

The new corrected drawings are in compliance with 37 CFR 1.121(d) therefore the previous objection is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 12 refer to a security perimeter that includes 2 or more data processing devices. On page 6 of the specification of the instant application, lines 23-25 states, "Rather than establishing a perimeter at external points of physical access to a network, the present invention establishes a perimeter of accountability for file usage at the point of use." For a single use, one of ordinary skill in the art would understand the point of use to consist of the device, which the user is interacting with. Therefore, how a security perimeter at the point of use can consist of multiple devices is not known. When evaluating the claims on their merits, the Examiner has

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allowed the claim language to take precedence and has shown a security perimeter with multiple devices.

Claims 2-11 and 13-22 depend from the above rejected claims and do not add additional clarity.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 through 3, 5, 7, 8, 11 - 14, 16, 18, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Shear (US 20010042043).

As to claim 1, Shear shows the ability to control access to digital assets (Paragraph 0184); aggregate atomic events (Paragraph 0188); assert policy violation predicate, typically this would be restricting access or notifying either the user or someone of authority, this is shown through the “security, metering, and usage administration capabilities” (Paragraph 0193), wherein, security and administration capabilities would commonly be understood to include access and notification functionalities; the ability to sense atomic events (Paragraph 0211); and allowing the aggregated atomic events to represent a single actionable event (Paragraph 0334). A security perimeter including multiple data processing devices (Paragraph 0043) is also shown.

The words “when” (line 5) and “if” (line 11) indicate optional limitations. As stated by the CA FC, “As matter of linguistic precision, optional claim elements do not narrow claim,

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since they can always be omitted; in present case (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)), elements of dependent claim directed to large diameter spirally formed pipe, which recite ‘further including that said wall may be smooth, corrugated, or profiled with increased dimensional proportions as pipe size is increased,’ do not narrow scope of claim compared to claims lacking those elements, since elements are stated in permissive form ‘may.’” Since the optional elements do not narrow the scope of the claim, they similarly do not have to be shown to reject the claim.

As to claim 2, Shear also shows the policy violation predicate being from the kernel (Paragraph 0182).

As to claim 3, Shear also shows the ability to restrict access through usage controls and usage administration capabilities (Paragraph 0197).

As to claim 5, Shear also shows that the policy violation predicate can be triggered according to the timing of events (Paragraph 0168). In the example given, the first copy is allowed, but after that first copy, the predicate is triggered if another copy is attempted.

As to claim 7, the limitation in claim 1, “...indicates a risk of use of the digital asset outside of the security perimeter” was shown to be optional. Therefore, a limitation that is “prior to” that optional element, is also optional.

As to claim 12, Shear shows a server to control access to digital assets (Paragraph 0184), aggregate atomic events (Paragraph 0188), assert policy violation predicate (Paragraph 0193), and the ability to sense atomic events (Paragraph 0211).

The word “if” (line 11) indicates an optional limitation. As stated by the CA FC, “As matter of linguistic precision, optional claim elements do not narrow claim, since they can

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always be omitted; in present case (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)), elements of dependent claim directed to large diameter spirally formed pipe, which recite ‘further including that said wall may be smooth, corrugated, or profiled with increased dimensional proportions as pipe size is increased,’ do not narrow scope of claim compared to claims lacking those elements, since elements are stated in permissive form ‘may.’” Since the optional elements do not narrow the scope of the claim, they similarly do not have to be shown to reject the claim.

As to claim 13, Shear also shows the policy violation predicate being from the kernel (Paragraph 0182).

As to claim 16, Shear also shows that the policy violation predicate can be triggered according to the timing of events (Paragraph 0168). In the example given, the first copy is allowed, but after that first copy, the predicate is triggered if another copy is attempted.

As to claim 18, the limitation in claim 12, “...indicates a risk of use of the digital asset outside of the security perimeter” was shown to be optional. Therefore, a limitation that is “prior to” that optional element, is also optional.

As to claims 8 and 19, Shear further shows that the security measures can be assigned based on the content, and thus, independent of the application (Paragraph 0055).

As to claims 11, and 22, Shear further shows that a particular file can be identified in an access event as referenced by the controls in combination with content usage information being transmitted to a responsible party (Paragraph 0197).

As to claim 14, Shear further shows inherently that the type of policy that was violated could be determined through use of the above mentioned usage information (Paragraph 0197).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear.

As to claims 6, 17, and 20, Shear shows all of the elements except for the ability of the user to document their reason for the policy violation. The Examiner takes official notice that it is notoriously old and well known in the art to document the reason for an access. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Shear to incorporate this functionality. The ability to document the reason at the time of the occurrence would provide for a record of what was done and why, saving the effort of finding the appropriate person to notify.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shear in view of Danieli (US Patent 6510513).

As to claim 9, Shear shows all of the elements except for the notification of the user that they have violated a policy. Danieli shows "alerting a user of the client computer of the inappropriate use" (Claim 14) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Shear with the teachings of Danieli to make it known to the user that there was a violation, because the notification allows the user to know

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they have done something the system believes they should not, enabling them to justify their actions to a responsible party and possibly get the policy changed, if their actions were justified.

Claims 4, 7, 10, 15, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear in view of McCarty (US Patent 5666411).

As to claims 4 and 15, Shear shows all of the elements except for the use of an intercept. McCarty teaches the use of an intercept in a digital asset control system (Column 14, Lines 4-7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Shear to use the intercepts as taught by McCarty, because intercepts take precedence over other commands being executed on the system, thus enabling the policy violation predicates to restrict the access to a file before the action with that file is finished.

As to claims 7 and 18, Shear shows all of the elements except for the ability for policy violation predicates to veto each other. McCarty teaches the use of an intercept in a digital asset control system (Column 14, Lines 4-7). It would have been obvious to one of ordinary skill in the art at the time of the invention that the use of interrupts enables the preemption of some predicates by predicates of higher status. Thus, it would also have been obvious to incorporate this preemption into the invention of Shear, as it would allow for the strongest actions to execute more quickly, providing better security on the system.

As to claims 10 and 21, Shear shows all of the elements except for the execution in real time. McCarty states that the system should operate in real time (Abstract, lines 4-7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Shear with the real time teachings of McCarty, because real time execution allows

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for a quicker response time, and when the response is to restrict an action, the sooner it is done, the more secure the data can be.

Response to Arguments

Applicant's arguments with respect to claims 1 and 12, and indirectly claims 2-11 and 13-22, have been considered but are moot in view of the new ground(s) of rejection.

Applicants argued that Shear does not show “optionally applying end user action policies based on attempted use of digital assets outside of a security perimeter as defined for a network of data processors.” As shown above, optional limitations do not limit the scope of the claims and therefore do not have to be shown in the rejection.

Applicants further argued that Shear does not show the aggregating of multiple atomic level events to create a combined event. This is shown by Shear, as originally rejected by the Examiner, this was evidenced by the metering and rules (Paragraph 0188). This is further shown to be the case with reference to “a combination of such events with a user-initiated event” (Paragraph 0334). Applicants following argument that because there was no indication of an aggregated event, that there could not be a policy violation that came from it is also rebutted with reference to the same passage.

Applicant's arguments filed 3 October 2007 have been fully considered but they are not persuasive.

Applicants argue in respect to claims 2 and 13 that “Shear discloses that its secure node may support a general purpose operating system that has a kernel” and not that the predicates are implemented in the kernel. This, however, is not what Shear said, the actual quote states, the

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“[s]ecure node 72 in this example may provide and support a general purpose Rights Operating System employing a reusable kernel and rights language components.” Therefore, it is the Examiner’s interpretation that the Rights Operating System, which controls access, as well as other rights to digital media, through use of the reusable kernel. This necessitates the predicates being implemented in the kernel.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Murdough whose telephone number is (571) 270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

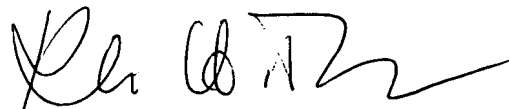
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough

KHOI H. TRAN
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Khoi H. Tran', written over the printed name and title.